

Rent Control

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1978

The Institute of Urban Studies





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WINNIPEG

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Published 1978 by the Institute of Urban Studies, University of Winnipeg
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Note: The cover page and this information page are new replacements, 2016.

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Public Statement in response to the announcements
by the Hon. E.R. McGill in the Manitoba Legislature,
April 28, 1978 and May 29, 1978, on the rent control
policy of the Government of Manitoba.

June 7, 1978
Resources provided by
Central Mortgage and
Housing Corporation.

INTRODUCTION

On Friday, April 28, 1978, Consumer Affairs Minister, Mr. E.R. McGill, made a preliminary announcement in the Manitoba Legislature, on the intentions of the government in reference to rent controls. On May 29, 1978, a further statement on the issue was made. The Institute of Urban Studies, at the University of Winnipeg feels that the minister's stated intentions have failed to recognize and deal effectively with several key issues. This brief, which is part of a larger study of rent control presently in progress at the Institute of Urban Studies, will list those issues which we feel must be dealt with and discuss why these are considered salient. Following that will be a summary of some suspected impacts and some recommendations to the government concerning the most viable future of rent control legislation in Manitoba.

Rent control, just one aspect of the larger issue of housing in general and rental housing in particular, cannot be viewed in isolation from other related issues. The right to housing of adequate quality and quantity and the affordability of housing, are just two side issues which must be considered in discussing or formulating policies concerning rents and rent control.

THE MINISTERS STATEMENT

The government statement, as presented in April, was sketchy and unclear on specific programs or policies which will be a part of the continuing rent control strategy. Four major points were presented in the statement however, and these form the basis of the following critique, along with some details which were presented on May 29, 1978.

On April 28, it was stated that,

"Guideline increases do not apply to:

1. Residential rental units located outside the cities of Winnipeg and Brandon.
2. Residential rental units in Winnipeg and Brandon located in buildings for which an occupancy permit was first issued on or after October 1, 1973.
3. Residential rental units in Winnipeg and Brandon where the rent payable for the unit is equal to or in excess of \$400.00 per month.
4. Residential rental units in Winnipeg and Brandon which are voluntarily vacated by the tenant in possession after September 30, 1978."

On Monday, May 29, 1978, the minister added in the Manitoba Legislature, some additional details of the rent control program to start October 1, 1978. As reported by the Winnipeg Tribune, Tuesday May 30, 1978, these details were that landlords were entitled to:

"Six percent increases when the landlord pays both heating and domestic power used for lighting, cooking and air conditioning; Five and a half percent when the tenant pays for winter heating or electricity; and
Five percent when the tenant pays for both heating and electricity."

The government's April 28th statement purports to "recognize the special and continuing needs of low income and elderly tenants," in reference to rental housing. However, in light of the specific information contained in the statement and the need of low income and elderly tenants, the following issues still emerge as having not been adequately addressed. The announced allowable increases seemed to have been formed in an informational vacuum. The differential in rent with heat and without heat do not seem to be based upon costs. For the year 1977 Inter City Gas company showed a record profit increase of 33%.¹ This record profit could not have been based upon an increase to customers of 5% for the year since the operating revenue increase was 21%. The allowable

1. Winnipeg Tribune, April 14, 1978.

increase for landlords, without review, is low. The vacancy rate in Winnipeg and the inner city in particular, in older apartment blocks is so low, that many landlords can be expected to try to vacate and hence decontrol as many units as possible. The above mentioned points, and the following issues, it is felt must be considered in the formulation of any decontrol policy for Manitoba, and the government statement indicated that this has not been done.

KEY ISSUES

1. Central Mortgage and Housing Corporation policy change which will seriously affect the supply of low income rental housing.
2. The housing needs of students in Winnipeg and Brandon must be satisfied at an affordable price.
3. The high mobility of the low income individual in the core area should be considered and recognized in a decontrol program. The program must contain protection against high rents for this group.
4. The onus should not be upon the tenant to complain in order to have rents reviewed.
5. City's increased code by-law enforcement is leading to serious reductions in the supply of inner city, low rental housing.
6. A mechanism for the enforcement of maintenance should be incorporated into any additional rent control legislation.
7. The fragmentation of power between the Rentalsman and the Rent Review Agency should be carefully examined.
8. More thought should be given to the format of continuing rent control, which previously was "building by building," and whether and how that format can be switched to "unit by unit" decontrol as proposed, and even if it should.

IMPLICATIONS OF EACH ISSUE

1. A Central Mortgage and Housing Corporation policy change will seriously affect the supply of low income rental housing.

On Wednesday April 26, 1978 CMHC, as reported in the Ottawa Journal, had privately announced changes in its housing policy. The details of the policy, it was reported, were given to provincial ministers on Tuesday, April 25, 1978. The newspaper said that,

- "The policy makes changes in the programs of CMHC including:
- Direct federal grants to municipalities to replace three existing or recently terminated programs.²
 - Restructuring of financial arrangements for the Assisted Rental Program (ARP) and the Assisted Home Ownership (AHOP) programs.
 - Merging of public, non-profit and co-operative housing programs under the general heading of social housing, with 100 percent mortgage financing, but no more capital grants.
 - Social housing will be integrated into mixed use neighbourhoods with no public housing projects to be built in the future, ..."

Manitoba Housing and Renewal Corporation (MHRC), the provincial equivalent of CMHC, recently announced that it too would no longer directly construct public housing. It would seem that both CMHC and MHRC are moving towards stimulation of the private sector to house individuals rather than creating housing for low income groups. Historically the private sector, except through the filtering process, and a small amount of low rental housing or low cost homes, has not increased the supply of low income housing in numbers sufficient to meet demand. Thus public housing was the only alternative for many low income families.

2. The housing needs of students in Winnipeg and Brandon must be satisfied at an affordable price.

University students are a particular segment of low income persons who need housing, often on a seasonal basis, at a low rental

2. Neighbourhood Improvement Program (NIP), Municipal Infrastructure Program and Municipal Incentive Grant Program.

level. The government proposal which allows for units to be decontrolled if voluntarily vacated by the tenant after September 30, 1978, will mean that all students apartment hunting in 1979, will be finding decontrolled units. Secondly, university students do not start classes until late September. Many will look for apartments for occupancy September 15th or October 1. Those who move in October 1 are accepting units which will most likely be decontrolled. In some cases, landlords may give two weeks free rent, September 15, to October 1, ostensibly while painting the apartment or making repairs, but really striving to have a technically vacant unit on September 30, 1978 in order to apply for decontrol of the unit.

Students, who are single people or couples without children, are not eligible for public housing units.³ The units which they occupy are low rental and often substandard. If the number of public housing units remains the same and new housing is too expensive (even with subsidies) for very low wage earners or welfare families those low rental units will be occupied by families on a year round basis instead of being available for students. In essence the demand upon the remaining units will increase as the supply contracts.

3. The high mobility of the low income individual.

Other studies carried out by the Institute of Urban Studies indicate⁴ that low income families tend to move more than upper income families. The reasons for this are many and varied. They include erratic employment opportunities, need to live near family and friends, bad debts and eviction by landlords. These persons most in need of rent protection will be left out of a system that penalizes the highly mobile tenant.

3. The method by which public housing eligibility is determined and the size of the units excludes students. Elderly persons housing contain one or zero bedroom units or some larger. Family housing units usually contain two or more bedrooms. In order to qualify for a two bedroom, the family must contain one or two adults and at least one dependent child.

4.. Core Area Study, Survey of Public Attitudes Toward the Police, Winnipeg's Core Area: An Assessment of Conditions Affecting Law Enforcement, I.U.S., 1975.

4. The onus to complain should not be on the tenant. Rents should be reviewed or monitored without tenant complaint.

This concern connects well to the above. The low income tenant who is most likely to need the protection afforded by rent control is also more likely to have little education and understanding of his rights and obligations. He also has little time or energy to spend exercising rights in a system that usually does not respect his rights.

5. The City of Winnipeg increased code by-law enforcement and changes in the occupancy and maintenance by-law, are leading to serious reductions in the supply of inner city, predominantly low rental, housing.

The city of Winnipeg in 1975 stepped up its inspections of buildings. Tougher new by-laws were added and many buildings received orders to carry out certain work. These were usually the older apartment blocks in the inner city. The repairs were sometimes very costly and therefore it was cheaper for the landlord to close the building. Consequently, a dramatic increase in the number of demolitions, and orders for buildings to close came from various departments concerned with occupancy. In 1972, thirty-two dwelling units in multiple family buildings were lost due to these orders. In 1977 the City of Winnipeg estimates that 578 units were lost.⁵ (The city projects that the rate of loss reached its maximum in 1977, for a number of reasons which will not be examined here.) This is an important statistic in view of the fact that these units are not being replaced. Most of the building taking place in the inner city on lots once occupied by low rental units are high-rise luxury and middle income subsidized rental units, beyond the reach of the lower income persons formerly residing on the site. Additionally, information from the census data concerning family formation levels, indicates that the family size is decreasing with the rise in the number of single person households. This information coupled with data concerning the inner city gathered by the Institute of Urban Studies, would indicate that these single person households may be either unemployed, elderly, students,

5. The Institute of Urban Studies and the City of Winnipeg are presently engaged in a joint study to examine, among other things the effect of the new by-laws concerning maintenance and occupancy of apartment buildings.

or other persons with low incomes. These people, in the face of increasing demand and a declining or static supply, are going to be hardest hit by rent increases.

6. A mechanism for the enforcement of maintenance should be incorporated into any additional rent control legislation.

Under the present framework and the new proposed rent control strategy, the rent review agency is not involved in monitoring maintenance or helping residents to determine if rent increases are excessive, in light of declining maintenance levels or services.

During the previous phases I - III, of rent control, many landlords raised parking rates, or charged for previously free parking. Laundry machine rates rose, hall carpeting was allowed to wear excessively, exterior and interior painting was reduced in frequency or eliminated all together in some cases, and only those tenants with long tenure could confirm these changes. The dependency on long tenure to confirm maintenance levels seriously weakens the ability of tenants under rent control to be guaranteed a supply of quality housing. Once again this unfairly penalizes the tenant who moves frequently, mostly those persons with low incomes.

7. The fragmentation of power between the Rentalsman and the Rent Review Agency should be carefully examined.

Many of the complaints which may arise from the new decontrol program will be matters which presently relate to the Rentalsman's office, such as if a landlord harasses a tenant to get him to move in order to be able to apply for decontrol of a specific unit. Also, the previous point concerning maintenance is one very critical issue which relates to this fragmentation of responsibility. Under the present system, a tenant takes a complaint of slow or no repairs to the Rentalsman, yet this repair problem may be indicative of the landlord reducing maintenance levels and still being granted rent increases based on increased costs on paper. (In some buildings full-time maintenance men or janitors became part-time or were withdrawn completely during rent controls.) Also the difficulty in getting repairs may induce some tenants to move, yet landlord harassment would be difficult to prove, and if proven, would the Rent Review Agency find out and if so would they find out before the unit is rented as a decontrolled unit?

At present there seems to be little communication between these two agencies, the Rent Review Agency and the Office of the Rentalsman, and also between these two offices and the public.

In talking with tenants, landlords, and tenants groups, it is surprising how little is known about the tenants' rights and obligations or the landlords' rights and obligations under the Landlord and Tenant Act and the Rent Stabilization Act. In some cases it seems as though the agencies were operating not for public benefit and protection. During the research for our larger report on rent control, several cases were discovered where people had been refused written confirmation of telephone conversations with the Rent Review Agency. Cases where apartment rents were raised each time the tenant moved were quite common in both the large and small apartment blocks. Tenants were unaware of their entitlement to a rent history form prior to signing their lease. Also there was no way of checking such a history form since the Rent Review Agency did not require reporting of such information. In some cases those tenants who were aware of their rights, refused to exercise them because they feared that they would lose their apartments, (and everyone in Winnipeg knows that good apartments are hard to come by despite the official vacancy rate of between 2 and 3 percent. Unofficially real estate agents and government officials concerned with housing indicate that the vacancy rate is probably a negative figure and certainly less than 1 percent, particularly in older inner city blocks.) CMHC, Winnipeg vacancy survey for April, 1978 showed an overall rate of 1.6%.

A concluding comment concerning these two agencies and their respective staff is important. The Office of the Rentalsman is a permanent government agency with permanent civil service staff. The Rent Review Agency is composed of contract employees and "secondements" from other government agencies. The Rent Review Agency was created as a "temporary" agency and as such no mechanism for communication between the two agencies nor any cross checking mechanisms were created. The staff of the Rent Review Agency also had few guidelines for carrying out their jobs at the onset and staff training and instruction was of necessity ad hoc as the agency determined what its job would be.

8. Rent control was building by building - decontrol as proposed would be unit by unit in Winnipeg and Brandon.

The rent control formula for determining increases depended upon the landlord keeping track of revenues and expenditures on a

building by building basis. The formula for Phase I, July 1974 to September 30, 1976:

$$\frac{1975 \text{ allowable operating costs} - 1974 \text{ allowable operating costs}}{\text{June 1975 Rent Roll} \times 12} \times 100$$

did not take account of discrepancies in various apartments. Many landlords were unable to equalize rents in essentially equal units in the same building, because the formula increase allowed was a percentage of the old rent for the suite. For example, two one-bedroom suites of nearly equal size, could have different rents as of June because of different lease renewal times, or tenant tenures. These differences would be perpetuated and increased by percentage of rent increases.

The problem of trying to use the formula, which utilizes building expense when some units are controlled and others are not, could lead to further inequities in unit rents. Also, many unit increases may be so low based on this system that landlords would choose to accept the allowable increase, (announced to be 5% w/o heat and 6% w heat) cut costs, and hope that tenants vacate so that they could apply for decontrol of the unit.

IMPACT OF DECONTROL PROGRAM

In a tight market situation, as is the present case in the Winnipeg rental housing market, tenants and landlords will be at a disadvantage under the proposed rent control program. Tenants will be unwilling to complain because in subtle and not so subtle ways, that tenants' life can be made miserable. In talking with some tenants over the past few months it is apparent that fear and intimidation are real. Tenants who are having landlord problems do not complain because the availability of accommodation is quite low. Thus if an apartment is a good one for the particular tenant, he will and has in most cases paid increases in excess of the allowable without the sanction of the Rent Review Agency. In a situation such as this, the number of tenant complaints will not reflect the seriousness of the situation but will be only the proverbial, "tip of the iceberg." How will the Rent Review Agency encourage these tenants to exercise their rights? How will they protect them?

It is important to stress that the decontrol policy as stated would require that the landlord apply for the decontrol of units.

This could lead to an inordinate amount of paper work for the Rent Review Agency, for which one solution might be for the Rent Review Officers to merely "rubber stamp " these applications for decontrol. They probably will not have time to track down each vacating tenant to determine if the vacation was voluntary. Thus far they have not been given the mandate to do this. What will be the procedure for determining if a unit will be decontrolled? Will the landlords' statement that the premises was voluntarily vacated be a sufficient statement?

At the start of the present rent control program the agency was inundated with 1,099 applications for relief, for phase I and II. Staff was borrowed from other government agencies, given some instruction, and put to work. Some persons who had contact with the Rent Review Agency, in particular representatives of landlords requesting higher than allowable increases, felt that the Rent Review Officers were not well skilled in how to carry out their duties. The formula (page 9), it was felt, was not properly applied. In some cases it was felt that the formula was not applied at all. The Rent Review Officers in some cases had no specific training in reading or understanding financial statements which landlords had to submit in support of applications for higher than allowable rent increases. In fact, an operating manual for Rent Review Officers was not completed until late 1977.

The staff composition and training, presumably would affect the administration of the rent control legislation and also would affect the efficiency of the agency. Approximately half a dozen instances of unsatisfactory contact with the Rent Review Agency were related to this author in as many conversations with tenants of various buildings. The complaints included being unable to obtain answers to questions in writing, not being notified of hearings, and receiving conflicting information from different Rent Review Officers.

As a consequence of weaknesses within the structure of the agency, the Rent Review Agency was unable to force landlords to follow procedure and request rent increases in excess of the allowed amount. The weakness of the public awareness campaign of the agency to inform tenants of the rights, and the separation of the Rent Review Agency from the Office of the Rentalsman forced some tenants to have to deal with both agencies in order to have complaints settled. Complaints of harassment are under the jurisdiction of the Rentalsman whereas rent increases are under the jurisdiction of the Rent Review Agency. If a tenant appears at a hearing of the Rent Review Board to oppose a rent increase, the

tenant may suffer harassment from the landlord. In this case the tenant will have to deal then with the Rentalsman in order to solve a problem which has its origins in the actions of the Rent Review Board.

SUMMARY

The rent control legislation in Manitoba - as in many of the other Canadian provinces was considered a temporary measure which may explain some of the problems of the Rent Review Agency structure. The continuation or discontinuation of rent control should be given as much, and hopefully more consideration, than the imposition of rent controls. Decontrol must develop with full knowledge of the structure and working of the particular rent control system as well as an understanding of the rental housing market and the particular market of the locale.

Preparatory to taking continuing action on rent control as optioned in the Rent Stabilization Act, S.M. 1976, C3, Section 15, the government prepared a document entitled A Preliminary Report on the Impact of Rent Controls in the Province of Manitoba. The report was prepared by researchers at the Rent Review Agency under the direction of the vice-chairman of the Rent Stabilization Board, and publicly released in April of 1978. This document, which contains a large amount of information on the rental housing market in Winnipeg, also lists various types of decontrol mechanisms and the consequences. The report makes some recommendations concerning future action in rental housing markets.

The report is well documented and contains much data which should serve as a "backbone" for any government announcement concerning the future of rent controls. The preliminary statement, made recently concerning the future of rent controls appears to have disregarded some of this readily available information. The later statement concerning the allowable increase does not recognize the seriousness of the housing situation nor the impact of rent controls and decontrols as presented in the government report.

In a Winnipeg Tribune article concerning the second announcement about rent control, Wilson Parasiuk, MLA (NDP - Transcona) called for a "housing program before controls are lifted so sufficient units in the market will control rents through supply and demand." This is indeed the area upon which the government should concentrate - providing affordable quality housing before lifting rent controls.

The rent control program does not recognize the needs of the low income and elderly as it says. In fact only those persons who are well aware of their rights, have a large selection of alternative accommodation, and have time to devote to the issue, will be able to exercise their right within the present framework of rent control as outlined by the government. It is of the utmost importance that better and more effective methods of controlling rent and providing accommodation be developed. As the present situation stands, it is expected that those persons most in need of rent protection, the low income and elderly, are those least likely to be protected under the new rent control program.

RECOMMENDATIONS

1. A vigorous housing program be instituted immediately to increase the supply of housing, particularly low rental.
2. An agency or interagency body be created to provide for co-ordination between the office of the Rentalsman and the Rent Review Agency if the two are to be maintained as separate agencies.
3. Enforcement and monitoring procedures should be instituted in order to protect those tenants who are less able to protect themselves. Also information gathered concerning rents from these procedures would be useful for the formulation of future rent policies.
4. Since the decontrol program focuses on Winnipeg and Brandon, some provision should be made for the pass through of all costs or low cost loans to landlords, in order to upgrade buildings so that the inner city housing supply will not continue to shrink through apartment closures and demolitions.
5. There are five decontrol options listed in the government report referenced earlier. The decontrol program as stated uses four of the five. The fifth option - rent supplement is contained in the new CMHC policy. The consequences of each decontrol option is also presented in the report. It is unwise to expect consequences or benefits of each option if all are exercised at once. The decontrol policy may create some unexpected and disastrous effects.

CONCLUSION

The above discussion of rent control does not present any major solutions to the problem of the rental housing market. This brief discussion has highlighted what are considered some of the major issues surrounding rent control.

The rental housing market is a very local market, and thus approaches to the market must be based upon and developed using, intimate information of the local situation. The government report on the impact of rent controls provides an excellent base upon which to build the necessary data to make informed decisions. Decontrol should not become, as was rent control, an ad hoc government intervention in the housing market. It is hoped that some of the questions raised in this paper and by others concerned with rent control will be given consideration before the rent control issue is finalized.